

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3080 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

(No. 1 to 5 NO)

BHARATSHINH KANUBHAI

Versus

STATE GOVT. OF GUJARAT

Appearance:

MR MD RANA for Petitioner

Mr.L.R. Pujari, Ld. Govt. Counsel for Respondents

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 05/12/97

ORAL JUDGEMENT

The petitioner Bharatsinh, a casual labourer in the Irrigation Department, Junagadh Sub Division, is before me by way of taking out the present petition. His grievance is that, he came to be employed as a casual labourer in the Irrigation Department of the State of Gujarat in year 1979-80 and that, since the said date he is in the service of the State. According to him,

initially he was given limited tenure of 29 days, but this, according to him is merely an artificial break in service. According to him, looking to his long tenure as a labourer in the said department of the State Government, he is entitled to all the benefits like prescribed pay scale, D.A. and other benefits.

Ld. counsel Mr. Rana who appears for the petitioner draws my attention to the Government Resolution dated October 17, 1988, under which the Government has decided to extend the benefits of the payment of regular pay scale, increments and other conditions of service, including pension, gratuity etc and that, therefore, the petitioner before me is also entitled to the same treatment on the basis of the principle of " equal pay for equal work ". Ld. counsel for the petitioner places reliance upon an unreported decision of this Court in Special Civil Application No. 5291/85 with Special Civil Application No. 2307/86 dated 22nd October 1997. There was a similar fact situation in the said petitions also. Ld. Single Judge placing reliance upon the above said Government Resolution dated October 17, 1988, ha taken the view that the petitioners therein also will be entitled to all such benefits. Ultimately the petitions came to be disposed of by giving certain directions to the concerned Department.

Here, in this petition also the fact situation is entirely similar. In view of the above said G.R. dated October 17, 1988 and the unreported decision aforementioned, in my opinion the present petition requires to be granted, and the rule requires to be made absolute as indicated hereinafter.

The petitioner herein is entitled to all the benefits under the above said Resolution dated October 17, 1988. In this view of the matter, the Respondents or the concerned Department there under are hereby directed to consider the case of the petitioner for according benefit of regular pay scale, allowance, pension, gratuity and other service benefits as per the above said Resolution dated October 17, 1988 within a period of three months from the date of receipt of the writ of the present orders. If the claim of the petitioner is accepted, then, all the benefits as referred to above shall be determined within a further period of two months thereafter, and the payment of arrears etc. should be made within one month next to that. The petition stands disposed of with these orders. Rule is made absolute to the above said extent, with no order as to costs.

In case of difficulty, liberty is reserved for
the petitioner to approach this Court once again.

/vgn.